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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,830	09/17/2003	Alan Phillips	PTG 02-103-12	4882
23531	7590	11/30/2005	EXAMINER	
SUITER WEST SWANTZ PC LLO 14301 FNB PARKWAY SUITE 220 OMAHA, NE 68154			CHUKWURAH, NATHANIEL C	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,830

Applicant(s)

PHILLIPS, ALAN

Examiner

Nathaniel C. Chukwurah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,8,9,41,42 and 45-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8,9,41,42 and 45-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 8-9, 41-42 and 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (US 5,904,285) in view of Chen (US 6,431,428).

With regard to claim 1, Anderson et al. discloses a pinion nail verification assembly (15) comprising: an axle (50) coupled with a nail loading assembly as shown in fig. 1, a pinion (21, 51, 52) coupled with the axle (50) wherein the pinion assembly allows the nail to advance to the nail driving assembly (assembly disposed in nail gun casing) in parallel with axis of rotation (see fig. 2).

Anderson et al. disclose all claimed subject matter but lack an adjustable angle magazine and a universal adapter. Chen teaches an adjustable angle magazine (20) having a universal adapter assembly (22, 23) pivotally mounted to the body of a pneumatic nail gun and can be rotated relative to the barrel of the nail gun to hold and feed another type of nail.

Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the angled magazine of Anderson et al. to be relative to the tool housing, and rotated relative to the barrel of the nail gun to hold for feeding another type of nail (see col. 1, lines 36-37; col. 2, lines 49-50), and a universal adapter assembly (22, 23) to permit adjustment of the magazine relative to the tool housing.

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With regard to claim 2, Anderson et al. shows a lock (75, 76) assembly with pinion for locking the position of the pinion.

With regard to claim 8, Anderson et al. shows a nail gun selected from the group consisting a pneumatic nail gun (10).

With regard to claim 9, Anderson et al. shows a nail gun deemed to comprise a clutch assembly.

With regard to claim 41, Anderson et al. discloses a pinion nail verification assembly (15) comprising: an axle (50) coupled with a nail loading assembly as shown in fig. 1, a pinion (21) coupled with the axle (50) by a first mounting member (bolt) and a second mounting member (bolt) pivotally coupled with the adjustable angled magazine, and wherein the pinion assembly allows the nail to advance to the nail driving assembly (assembly disposed in nail gun casing) in parallel with axis of rotation (see fig. 1).

Anderson et al. disclose all claimed subject matter but lack an adjustable angle magazine. Chen teaches an adjustable angle magazine (20) pivotally mounted to the body of a pneumatic nail gun and can be rotated relative to the barrel of the nail gun to hold and feed another type of nail.

Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the angled magazine of Anderson et al. by providing adjustability in order to adjust the magazine relative to the tool housing, and rotated relative to the barrel of the nail gun to hold for feeding another type of nail. See (col. 1, lines 36-37; col. 2, lines 49-50).

With regard to claim 42, Anderson et al. shows a lock (75, 76) assembly with pinion for locking the position of the pinion.

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With regard to claim 45, Anderson et al. lacks a pusher. Chen teaches an articulating pusher (32) rotatably mounted on sliding base (30) for pushing nails towards the nail gun barrel (16). Therefore, it would have been obvious to one skilled in the art at the time of the invention to provide the angled magazine of Anderson et al. with an articulating pusher assembly in order that nails are pushed towards the nail discharging barrel.

With regard to claim 46, Anderson shows a nail shank pawl assembly (see figs. 3 and 4).

With regard to claim 47, Anderson et al. shows a pneumatic nail gun (10).

With regard to claim 48, Anderson et al. shows a nail gun deemed to comprise a clutch assembly.

Response to Arguments

Applicant's arguments filed 9/19/2005 have been fully considered but they are not persuasive.

With respect to claim 1 and 41, applicant argues that Anderson et al. suggest adjustable angle magazine or suggest a universal adapter.

It is the Examiner's position that the primary reference (Anderson et al.) taught the claimed subject matter; and Chen was used to teach a universal adapter and adjustable angle magazine.

Further applicant argues that neither Anderson et al. nor Chen disclose or suggest a first and a second mounting members.

The Examiner disagree with applicant because Anderson et al. teach mounting member for the pinion. See (col. 3, line 64).

Conclusion

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

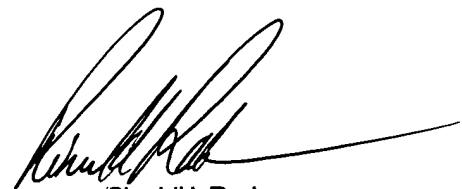
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC

November 10, 2005.

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal flourish extending to the right.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700